

**Board of Health Minutes**  
**Monday, January 12, 2015 5:30 PM**  
Meeting Room C, Town Hall  
25 Green Street, Ipswich, MA

**Call to Order:** Susan Hubbard called the meeting to order at 5:35 PM.

**Members attending:** Dr. Amesbury and Susan C. Hubbard were in attendance.

**Others in attendance:** Director of Public Health; Colleen Fermon, Public Health Administrative Assistant; Jennifer Brown, John Morin, P.E., James MacDowell, P.E., Daniel Johnson, R.S., Hugh L. Graham, P.E., Stephen Manley and David Morrow.

**Citizens Queries:** None.

**Minutes:** Dr. Amesbury made a motion to approve the December 8, 2014 minutes. Susan Hubbard seconded the motion. The motion passed unanimously.

**Hearings:**

**5:36 – Hearing - Todd Bailey and Deborah Cullen – 1 Birch Lane – represented by The Morin – Cameron Group, Inc. – Alternative Technology Waiver**

John Morin, P.E., presented, and a hearing was conducted to consider an Alternative Technology waiver for a sewage disposal system plan #3273, designed by Scott Cameron, P.E., dated September 9, 2014 and last revised December 12, 2014 for the 3 bedroom dwelling located 1 Birch Lane, Ipswich, Massachusetts.

The system failed a Title 5 Inspection on June 5, 2014. This is a 19, 000 square foot lot with an existing septic tank and cesspool in the front yard.

Mr. Morin proposed the installation of a Presby Enviro-Septic Wastewater Treatment system for the upgrade and requested the following Alternative Technology waiver:

- A 2 foot reduction between the bottom of the leaching area and estimated seasonal high groundwater (ESHW) requested under the Presby Enviro-Septic Remedial Use Approval.

Mr. Morin noted that the upgraded system would be in the front of the property. If the upgraded system was in the back of the property a pump would be required even with the Alternative Technology waiver. Additionally, it would involve the removal of 14-20 mature trees.

Susan Hubbard asked Colleen for her thoughts. Colleen Fermon said this is a challenging site and felt the design was a reasonable approach.

Susan Hubbard made a motion to approve the plan and grant the Alternative Technology waiver with the following conditions:

- Except for the installed SAS, the System Owner shall not construct any permanent buildings or structures in the area for the best feasible replacement system that could be installed to replace the proposed System and the System Owner shall not disturb the site in any other manner that would preclude the future installation of the best feasible replacement system.
- Prior to issuance of Disposal System Construction Permit, the System Installer must certify in writing to the Designer, the Public Health Office, and the System Owner that (s) he is a locally approved System Installer and is certified by or has received appropriate training by the Company. The Presby certification must be submitted to the Public Health Office.

- Prior to issuance of Disposal System Construction Permit and after recording the Deed Notice required by 310 CMR 15.287(10), the System Owner shall provide to the Public Health Office a copy of a certified Registry copy of the Deed Notice bearing the book and page/or document number. The Notice is the DEP document titled Notice of Alternative Disposal. A sample of the Notice of Alternative Disposal can be found on the Massachusetts Department of Environmental Protection's website <http://www.mass.gov/dep>.
- Prior to the issuance of a Certificate of Compliance by the Public Health Office, the System Installer and Designer must provide, in addition to the certifications required by Title 5, certifications in writing to the Public Health Office that the System has been constructed in compliance with the terms of the Approval.
- Prior to the issuance of a Certificate of Compliance, the Installer must provide a bill of lading certifying the sand meets ASTM C-33.
- Prior to the issuance of a Certificate of Compliance, the Installer must provide a completed "System Installation Form" to the Public Health Office before the Certificate of Compliance can be issued.
- The system must be installed with the Certificate of Compliance issued by June 5, 2016.
- An Ipswich licensed installer must come to the Public Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee. The installer will receive the disposal system construction permit, the trench permit and a signed copy of the approved plan.

Dr. Amesbury seconded the motion. The motion passed unanimously.

**5:40 – Hearing - Dan Destefano – 7 Old Essex Road – represented by Eastern Land Survey Associates, Inc. – tight tank and Board of Health Septic System Regulation variance requests**

James MacDowell, P.E., presented, and a hearing was held to discuss a variance from Ipswich Board of Health Septic System Regulation 2.3, and the installation of a tight tank. The tight tank plan # F-17418, was designed by Clayton Morin, P.E., and dated September 17, 2014 and last revised December 3, 2014 for the 3 bedroom dwelling located at 7 Old Essex Road, Ipswich, Massachusetts.

The system failed a Title 5 Inspection on April 14, 2014. Percolation tests confirmed that the soils would not support a conventional system. Subsequently, a tight tank plan was proposed for the upgrade. Mr. MacDowell explained tight tanks are allowed in situations where an existing system has failed and there is no other feasible alternative. Tight tanks are similar to septic tanks, except that they have no outlet and must be pumped out at regular intervals. Tight tanks are not allowed for new construction or increases in design flow.

Mr. MacDowell also explained that the entire property is within the ACEC buffer zone. Mr. MacDowell requested a variance to allow the tight tank to be within the 150 feet buffer zone of the ACEC.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said location of the proposed tight tank was dictated by the fact that the entire property is within the ACEC buffer zone so there is no other option in this situation.

It was the decision of the Board to approve the tight tank plan and grant a variance to allow the tight tank to be within the 150 feet buffer zone of the ACEC with the following conditions:

- A two (2) year operation and maintenance contract must be obtained with a copy submitted to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
- A two (2) year service contract with a septage hauler licensed in Ipswich must be obtained, designating the disposal location of the contents. A copy of the contract must be submitted to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
- A three (3) bedroom deed restriction must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Public Health Office prior to issuance of Disposal System Construction Permit.
- The Board of Health approval letter must be recorded at the Southern Essex County Registry of Deeds, and a recorded copy submitted to the Public Health Office prior to issuance of Disposal System Construction Permit.
- The tight tank must be vacuum tested on site by the manufacturer to prove it is watertight
- Conservation Commission approval must be obtained prior to issuance of the Disposal System Construction Permit.
- The tight tank must be installed with the Certificate of Compliance issued by April 14, 2016.
- An Ipswich licensed installer must come to the Public Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee.

Dr. Amesbury seconded the motion. The motion passed unanimously.

The Board noted that, in accordance with 310 CMR 15.260 (5), when town sewer becomes available, any person owning a tight tank shall connect to the sewer within 30 days and the tight tank system shall be abandoned in accordance with 310 CMR 15.354.

**5:45 – Hearing - Charles Gianakakis – 240 High Street – represented by Domestic Septic Design, Inc. - Local Upgrade Approval request**

Daniel Johnson, R.S., presented, and a hearing was conducted to consider a Title 5 Local Upgrade Approval request for a sewage disposal system plan# J-2392 designed by Daniel Johnson, R.S., dated September 29, 2014 and last revised November 4, 2014, for the 3 bedroom dwelling located at 240 High Street, Ipswich, Massachusetts.

A Cultec system was proposed for the upgrade and a variance was requested to allow more than three (3) feet of cover over the leaching area; a maximum four (4) feet of cover was proposed.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said the variance request was acceptable under a Local Upgrade Approval request and recommended granting the request.

Susan Hubbard made a motion to approve the plan and grant the local upgrade approval as requested with the following conditions:

- Except for the installed SAS, the System Owner shall not construct any permanent buildings or structures in the area for the best feasible replacement system that could be installed to replace the proposed System and the System Owner shall not disturb the site in any other manner that would preclude the future installation of the best feasible replacement system.
- Prior to issuance of Disposal System Construction Permit, the System Installer must certify in writing to the Designer, the Public Health Office, and the System Owner that (s)he is a locally approved System Installer and is certified by or has received appropriate training by the Company. The Cultec certification must be submitted to the Public Health Office.
- Prior to the issuance of a Certificate of Compliance by the Public Health Office, the System Installer and Designer must provide, in addition to the certifications required by Title 5, certifications in writing to the Public Health Office that the System has been constructed in compliance with the terms of the Approval.
- An Ipswich licensed installer must come to the Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee. The installer will receive the disposal system construction permit, the trench permit and a signed copy of the approved plan.

Dr. Amesbury seconded the motion. The motion passed unanimously.

**5:47 – Hearing - Jane Desrochers – 29 Jeffrey’s Neck Road – represented by Domestic Septic Design, Inc. - Local Upgrade Approval and Board of Health Septic System Regulation variance request**

Daniel Johnson, R.S., presented and a hearing was conducted to consider variances from Title 5 and Ipswich Board of Health regulations for a sewage disposal system plan designed by Daniel Johnson, R.S., dated October 30, 2014 and last revised December 1, 2014, for the 4 bedroom dwelling located at 29 Jeffrey’s Neck Road, Ipswich, Massachusetts.

This is a voluntary upgrade. The existing system borders the wetland buffer zone. Mr. Johnson said soil testing conducted on both sides of the property were consistent; groundwater was shallow so a pump chamber would be needed.

Mr. Johnson proposed the use of a Presby Enviro-septic leaching system since he was able to move the leaching area as far away from the ACEC buffer zone as possible with the use of this technology. The following variances were requested:

- A 1 foot reduction in the separation between the bottom of the leaching area to the estimated seasonal high groundwater (ESHGW) with the use of a Presby Enviro-septic leaching system. A 3 foot separation is provided.
- To allow all septic components except the leaching area to be within the 150 foot buffer zone of the ACEC.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon felt this was a reasonable approach given the site constraints and recommended granting the variances as requested.

Dr. Amesbury made a motion to approve the plan and grant the following variances as requested with the following conditions:

- Except for the installed SAS, the System Owner shall not construct any permanent buildings or structures in the area for the best feasible replacement system that could be installed to replace the proposed System and the System Owner shall not disturb the site in any other manner that would preclude the future installation of the best feasible replacement system.
- Prior to issuance of Disposal System Construction Permit, the System Installer must certify in writing to the Designer, the Public Health Office, and the System Owner that (s)he is a locally approved System Installer and is certified by or has received appropriate training by the Company. The Presby certification must be submitted to the Public Health Office.
- Prior to issuance of Disposal System Construction Permit and after recording the Deed Notice required by 310 CMR 15.287(10), the System Owner shall provide to the Public Health Office a copy of a certified Registry copy of the Deed Notice bearing the book and page/or document number. The Notice is the DEP document titled Notice of Alternative Disposal. A sample of the Notice of Alternative Disposal can be found on the Massachusetts Department of Environmental Protection's website <http://www.mass.gov/dep>.
- Prior to the issuance of a Certificate of Compliance by the Public Health Office, the System Installer and Designer must provide, in addition to the certifications required by Title 5, certifications in writing to the Public Health Office that the System has been constructed in compliance with the terms of the Approval.
- Prior to the issuance of a Certificate of Compliance, the Installer must provide a bill of lading certifying the sand meets ASTM C-33.
- Prior to the issuance of a Certificate of Compliance, the Installer must provide a completed "System Installation Form" to the Health Office before the Certificate of Compliance can be issued.
- An Ipswich licensed installer must come to the Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee. The installer will receive the disposal system construction permit, the trench permit and a signed copy of the approved plan.

Susan Hubbard seconded the motion. The motion passed unanimously.

#### **5:50 – Hearing - North Ridge Road Realty Trust – 32 North Ridge Road – represented by H.L. Graham Associates, Inc. – tight tank approval**

Hugh L. Graham, P.E., presented and a hearing was conducted for the approval of a tight tank plan #12-1206 designed by Hugh Graham, P.E., dated January 24, 2013 and last revised May 15, 2013 for the 3 bedroom dwelling located at 32 North Ridge Road, Ipswich, Massachusetts.

On October 8, 2014 the owner signed an agreement with the Board of Health to upgrade the septic system and to install a new system by October 8, 2016.

Percolation testing confirmed that the soils cannot support a leaching area. The percolation rate was greater than 90 minutes per inch. Mr. Graham proposed the use of a 1,000 gallon pump chamber and a 4,000 gallon tight tank.

Ms. Fermon recommended granting approval of the tight tank since there was no other alternative.

Dr. Amesbury made a motion to approve the tight tank design with the following conditions:

- A two (2) year operation and maintenance contract for the tight tank and pump chamber must be obtained with a copy submitted to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
- A two (2) year service contract for the tight tank and pump chamber with a septage hauler licensed in Ipswich must be obtained, designating the disposal location of the contents. A copy of the contract must be submitted to the Public Health Office prior to the issuance of the Disposal System Construction Permit.
- A three (3) bedroom deed restriction must be filed at the Southern Essex County Registry of Deeds with a recorded copy provided to the Public Health Office prior to issuance of Disposal System Construction Permit. A model bedroom deed restriction can be found on the Massachusetts Department of Environmental Protection's website <http://www.mass.gov/dep>.

- The Board of Health approval letter must be recorded at the Southern Essex County Registry of Deeds, and a recorded copy submitted to the Public Health Office prior to issuance of Disposal System Construction Permit.
- The tight tank must be vacuum tested on site by the manufacturer to prove it is watertight
- Conservation Commission approval must be obtained prior to issuance of the Disposal System Construction Permit.
- The tight tank must be installed with the Certificate of Compliance issued by October 8, 2016.
- An Ipswich licensed installer must come to the Public Health Office prior to beginning the project to complete the application and submit a trench permit application signed by the owner and the \$50 trench permit fee.

Susan Hubbard seconded the motion. The motion passed unanimously.

The Board noted that, in accordance with 310 CMR 15.260 (5), when town sewer becomes available, any person owning a tight tank shall connect to the sewer within 30 days and the tight tank system shall be abandoned in accordance with 310 CMR 15.354.

#### **5:55– Hearing - David Morrow – 3 Courtland Way – Title 5 inspection variance request**

David Morrow presented, and a hearing was conducted to consider a variance request from section 10.2 of the Ipswich Board of Health Septic Regulations. Section 10.2 reads; a septic system shall be inspected by an Ipswich licensed Title 5 Inspector whenever an addition or renovation to an existing building, excluding decks, is proposed that increases the footprint of the building and requires a building permit or occupancy permit from the building inspector. The inspection requirement shall be waived if a Certificate of Compliance was issued or a Title 5 Inspection was completed within the previous 3 years, or if the system is under an operation and maintenance contract.

At the meeting, Mr. Morrow proposed the addition of a master bedroom and bath, which extends beyond the existing footprint. Pursuant to local regulation, a Title 5 inspection is required. The Board reviewed building plans for the expansion.

Mr. Morrow requested a variance to the Title 5 inspection since the septic system was installed in 1987 and passed Title 5 inspections on September 18, 2002 and February 14, 2005. Additionally, the system was pumped on January 3, 2001, April 12, 2004, May 23, 2008 and November 27, 2012 and no problems with the septic system were found at those times.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon felt the Public Health Office had a lot of information available on the system and therefore it was a good candidate for a variance.

Susan Hubbard asked how many bedrooms the dwelling was designed for. This is a 4 bedroom dwelling.

Dr. Amesbury made a motion to grant the variance and not require the Title 5 inspection for the proposed addition since the septic system was inspected in 2002 and 2005 and the septic tank was pumped in 2001, 2004, 2008, and 2012 and no problems with the septic system were found at those times. Susan Hubbard seconded the motion. The motion passed unanimously.

#### **6:00– Hearing - Leslie Carrington – 23 North Ridge Road – represented by Gregory Harrison – septic installation variance**

Gregory Harrison presented, and a request for a variance to Ipswich Board of Health Septic System Regulation 3.10 which states that septic systems shall not be installed between December 15 and March 15. Construction of systems that commenced prior to December 15 shall be allowed to be completed.

Gregory Harrison of W. Harrison & Sons, Inc., explained that a new dwelling and septic system is proposed for the property and that the construction of the dwelling will begin prior to March 15, 2015. He requested a variance to allow the installation of the septic tank and pump chamber in January, weather permitting, to avoid installation challenges that would occur after the dwelling was constructed and possibly the need for a crane to set the tanks.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon was comfortable with the variance request given that there will be a stable base on compacted stone which will be above the frost line.

Susan Hubbard made a motion to grant a variance to Ipswich Board of Health Septic System Regulation 3.10 and allow the septic tanks to be installed in January, weather permitting. Dr. Amesbury seconded the motion. The motion passed unanimously.

**6:02 – Hearing - Stephen Manley – 24 Green Street – Order to correct for violations of Minimum Standards of Fitness for Human Habitation**

Stephen Manley presented, and a hearing was conducted, upon his request, regarding the order to correct issued on December 15, 2014.

Colleen Fermon provided some background information for the Board.

As a result of a complaint received by this office, a housing inspection was conducted on October 8, 2014, at 24 Green Street, Ipswich. In accordance with 105 CMR 410.000: State Sanitary Code Chapter II: Minimum Standards of Fitness for Human Habitation, violations were found and an order was issued on October 10, 2014.

A re-inspection was conducted on December 11, 2014 and the following violations were not corrected:

410.550: Extermination of Insects, Rodents and Skunks and 410.750: Conditions Deemed to Endanger or Impair Health or Safety

A rodent dropping was found in the kitchen.

Mr. Manley was ordered to make a good faith effort to substantially correct this violation within twenty four (24) hours of receipt of the notice.

410.351: Owner's Installation and Maintenance Responsibilities

The wallpaper is peeling back along the seams above and below the showerhead in the bathroom. There are cracked bathroom floor tiles. In the kitchen, the wallpaper is peeling back above the back doors.

410.500: Owners Responsibility to Maintain Structural Elements

There are holes in the basement ceiling.

The following new violation was also cited.

410.190: Hot Water

The hot water was not reaching 110F, it was at 90F at the time of inspection.

An order to correct was issued on December 15, 2014.

A second re-inspection was conducted on January 9, 2015 and the following violations remained:

410.351: Owner's Installation and Maintenance Responsibilities

There are cracked bathroom floor tiles.

410.500: Owners Responsibility to Maintain Structural Elements

There are holes in the basement ceiling; the ceiling is not in good repair.

Mr. Manley requested the Board withdraw the order to correct for the remaining two violations.

Mr. Manley explained that the basement ceiling was installed in 1864 and that the holes are due to subsequent plumbing and electrical wiring changes in the basement. Additionally, it is his intention to either put the home on the market, convert the dwelling into condominiums, or keep one unit for himself and sell the second unit.

His goal is to put in a new heating system once the sale is finalized. The tenant is scheduled to vacate the premises by the end of March 2015.

Susan Hubbard asked Colleen Fermon for her thoughts. Ms. Fermon said the cracked bathroom floor tiles are not in bad repair; they are cracked but are still in place. Overall the dwelling unit is in good repair and Mr. Manley has shown a good faith effort to bring the property into compliance. Ms. Fermon did not feel there was any hardship to the tenant if the tiles were not replaced at this point. The basement ceiling is not in good condition due to a lot of holes but the basement is very old and has a dirt floor. The ceiling cover could be removed and the owner could leave the exposed framing.

Susan Hubbard made a motion to withdraw the order to correct for the remaining two violations. Dr. Amesbury seconded the motion. The motion passed unanimously.

## **6:10 - Director of Public Health Report:**

### **Robert and Julie Keyes – 30 Plover Hill Road- Board of Health decision on bedroom count:**

Colleen Fermon explained the owners are out of state and could not make this meeting or the last meeting. She reviewed the file for the Board. After conducting a walkthrough of the dwelling on January 3, 2013 to determine the number of bedrooms for the purpose of septic design only, it was determined that the dwelling contained two (2) bedrooms in accordance with the definition of bedroom provided in Title 5, 310 CMR 15.000. The dwelling was determined to contain two (2) bedrooms since the room the owners considered a third bedroom was not private; it was open to the hallway and breezeway that leads to the garage.

At the September 9, 2013 Board of Health meeting, a hearing was held, upon the homeowners' request, to appeal Ms. Fermon's decision regarding the number of existing bedrooms in the dwelling at 30 Plover Hill Road. At the meeting, the Board reviewed the floor plans and information submitted on August 5, 2013. The owner's outlined that the property has been in their family since it was developed and the dwelling was built in 1948 and it had three (3) bedrooms. In 1964 a garage was added and one of the first floor bedrooms became a walkthrough to gain access to the garage. In 2013, they returned the floor plan to the way it was in 1948. The owners requested the Board designate the dwelling as having three (3) bedrooms.

Additionally, at the meeting their representative, Denis Ryan, said they planned to upgrade the septic system and would install a 3 bedroom septic system once the Board allowed the 3 bedroom designation.

Based on this information it was the decision of the Board that the dwelling located at 30 Plover Hill Road contained three (3) bedrooms with the condition that a 3 bedroom septic system was installed by December 31, 2014.

The Board discussed their September 9, 2013 decision to allow a 3 bedroom designation for 30 Plover Hill Road. It was noted that approval of a 3 bedroom designation was granted with the condition that a 3 bedroom septic system was installed by December 31, 2014.

It was the decision of the Board to grant an extension for the upgrade of the system. The Board ordered that a 3 bedroom system must be installed with the Certificate of Compliance issued by December 31, 2015. The Board said the owners would be given an opportunity to have a hearing to appeal the Board's decision, if they so desired.

**November 2014 Activities Report:** The Board reviewed the Director's report.

### **Projects:**

The Ipswich Board of Health offered flu shots for a second time by appointment on Tuesday, November 18 from 11-2 pm in the Health Office at Town Hall, 25 Green Street. The influenza vaccine is available to individuals 19 years of age and older and is free of charge. An additional 18 doses were given resulting in a total of 111 people being vaccinated to date.

### **Weekly Activities:**

**Ebola:** The Department of Public Health (DPH) has been holding weekly conference calls on Ebola. The Epidemiology Program at the Massachusetts Department of Public Health (DPH) will provide consultation and assistance to local health officials and providers who have questions about assessing an individual's risk for Ebola. The Epidemiology Program can be reached by calling 617-983-6800.

DPH has provided information to Local Boards of Health which includes a Checklist for Local Boards of Health, Plan for Adopting and Implementing CDC Guidance for Monitoring and Ebola Information for Persons in Home Quarantine.

Local health officials may be called upon to do the following:

1. Provide information and reassurance to your community based on the actual, rather than perceived, risk to residents in the community.
2. Assess individuals who have personal travel and/or exposure histories that might identify them as being at risk for developing Ebola virus disease (EVD).
3. Follow up on individuals identified as at risk for developing EVD. This could include assisting with direct or active monitoring activities, providing ongoing counseling and educational support, or enforcing mandatory quarantine.

Direct active monitoring refers to the observation by a public health official of an individual at least once per day to assess symptom status, monitor temperature, and discuss plans for work, travel, and movement in public places; a second monitoring contact each day may occur by phone. Active monitoring refers to an individual taking their own temperature (twice daily), observing their symptom status and reporting these findings daily to a public health official by phone or by electronic means.

To date there have been no cases of Ebola in Massachusetts.

**Food Establishments:** Ipswich River General Store will be relocating within Ipswich. The Food Plan Review Process has commenced. Ipswich Butcher Shop will be closing.

**Septic Betterment Program:** Another septic loan has been approved; this is the tenth loan since the program commenced.

**Tobacco:** Packets of signage and the Massachusetts laws regarding the sale of tobacco were disseminated to tobacco retailers. The Food Inspector will commence an annual program for tobacco retail store inspections in December. Retail store inspections will be conducted to determine if tobacco sales permits and/or required signs are posted, and if stores illegally sell tobacco products in self-service displays or vending machines. There will be no penalties for operators who are not in compliance; they will be educated and provided the tools needed to comply.

**Housing:** As outlined her October report, enforcement orders have been issued for five properties. Ms. Fermon is considering receivership for a few properties. She attended a meeting held by Judge Sullivan, First Justice of the Northeast Housing Court, to discuss the adjudication of receiverships. Judge Sullivan outlined (1) the court's interest in and expectations of the receivership process and (2) changes to certain policies and procedures which have been instituted since Judge Sullivan's appointment. The major change is that receiver's scope of work will be limited to correcting the violations identified in the Board of Health's order for correction. The court will establish a list of approved receivers that will be utilized on a rotating basis. Petitioners will not be able to request a particular receiver.

Ms. Fermon also wanted to pursue the Abandoned Housing Initiative (AHI) of the Attorney General's Office. She met with Abigail Fee, Assistant Attorney General, and reviewed the program. AHI was developed to provide a tool to communities to rid otherwise viable neighborhoods of blighted property. This program functions as a partnership between the Attorney General's Office and local communities to turn these properties around. To make these changes, the Program employs the State Sanitary Code's enforcement authority vested in the Attorney General (AG) and individual cities and towns to seek out delinquent owners of abandoned, unoccupied, residential properties to get the owner to fix his or her house. If the owner refuses, then the Attorney General's Office will petition the Housing Court to appoint a receiver to bring the house up to applicable code.

The Attorney General's Office role in this partnership begins by providing investigatory services to the town in order to find the delinquent owners. If owners cannot be located, the Attorney General will assist the town to develop a record



sufficient to obtain an order allowing the court to provide notice to "any interested parties" by posting and publication much like a probate court matter. If an owner is found, the Attorney General provides conciliation efforts. The Attorney General invites the owner to meet and discuss the problems the house is causing its neighbors. The meeting is intended to reach an agreement on a timetable under which the owner will complete repairs. Generally, they ask the owner to show proof that he or she can finance such a project and that it has obtained a licensed contractor for the work. In the event that these negotiations fail, the State Sanitary Code contains an effective receivership provision which provides communities with a real code enforcement tool where criminal complaints were previously ignored by delinquent owners. To begin the receivership process, the AG and/or town petitions the appropriate court to appoint a receiver.

The Sanitary Code receivership provision allows the receiver to place a lien against the property for all costs incurred by the receiver during the project. That lien is given a priority over all existing liens, except municipal liens. During this process, the receiver works as an agent of the court, not for the Petitioner (AG or Town). Once the receivership is granted, the petitioner monitors the monthly cost reports submitted by the receiver to the court for approval.

At the conclusion of the receivership, which is generally six months to one year depending upon the scope of work needed, the owner of the property may reimburse the receiver for costs and clear the lien. If the owner cannot or will not pay the costs, then the receiver can foreclose on that lien, and the property is sold at auction to the highest bidder. The receiver is responsible for the foreclosure. The petitioner has no role in this step.

The AHI strikes a balance between private property owner's rights and the public's right to be free from dangers posed by health, safety and building code violations. The owner never loses legal title to the property during the receivership. The only time the owner loses title is if the owner fails to pay the receiver's lien or is not the highest bidder at auction. Note, the owner is given the opportunity to step in and take responsibility at any time, but only to the court's satisfaction.

Two properties that are unoccupied and appear to be abandoned by the owners, 41 Country Club Way and 40 South Point Lane, appear to fit the AHI program. Ms. Fermon will be forwarding the files to the Attorney General's Office. If they feel they are right for the AHI, Ms. Fermon will have the AG commence.

For properties that are occupied, Ms. Fermon outlined the steps that will be taken to address State Sanitary Code, Chapter II violations.

1. Complaint received- document date received and concerns.
2. Research ownership of property.
3. Conduct inspection, complete inspection report and take photos.
4. Violations found, send order for correction (first class and certified mail) and include right to a hearing. If it appears it will be deemed unfit for human habitation notify all mortgagee and lien holders.
  - a. If hearing is requested, Board of Health will notify when hearing is scheduled. Board of Health will sustain, modify or withdraw the order. If order is sustained or modified and owner fails to comply with BOH order, a criminal complaint is filed with Housing court. File request for criminal complaint for failure to correct with Clerk Magistrate. See #7.
5. Confirm order was received and work has commenced within timeframe provided in order (48 hours, 5 days, etc.)
  - a. Failure to commence repairs- Order owner to appear at BOH meeting for hearing with regard to order to correct. Letter should include information that failure to appear may result in further action and/or receivership. In addition, criminal complaint may be issued and hearing before judge will be scheduled.
  - b. Repairs in progress- owner has timeframe provided in order to achieve substantial compliance. Re-inspection will be conducted at end of timeframe.
6. Owner fails to attend BOH hearing, a criminal complaint is filed with Housing court. File request for criminal complaint for failure to correct with Clerk Magistrate.

7. Hearing with Clerk Magistrate- used to determine if hearing with judge is needed.
  - a. If owner attends, a timeframe for compliance will be outlined. Agent for BOH should have violations outlined and timeframes prepared and a chronological list of documents and the documents numbered in order of events. A lot of cases will be resolved at this step.
  - b. If owner fails to show, file for hearing before a judge.
8. The first hearing before judge.
  - a. If owner attends, a timeframe for compliance will be outlined. Agent for BOH should have violations outlined and timeframes prepared and a chronological list of documents and the documents numbered in order of events. Keep case open- may not get resolved.
  - b. If owner does not show up request a bench warrant for arrest.
9. The second hearing before judge, notify judge receivership process will be initiated by the Town of Ipswich.
10. File motion for receiver.
11. Hearing for appointment of receiver. Court will have a list of approved receivers. If receivership is granted, the receiver will control property (no longer under control of owner) and gets a budget approved by the court to make the repairs outlined in the order for correction. The receiver is required by the court to file regular accountings of the work done on the project and the expenses incurred.
12. Re-inspection done to confirm all corrections have been completed. Involvement of Public Health Department ends.
13. Once work is completed, the receiver may petition the property owner for repayment of their lien. If the owner declines, then the receiver can petition the court to foreclose on that lien by public auction. The receiver's lien will take priority over all other liens and encumbrances except tax or municipal liens.
14. The receiver goes to court to dissolve the receivership.

**Annual Permitting:** Approximately 200 applications have been received and are being processed. Holders of annual permits issued by the Board of Health seeking permits for 2015 must reapply by December 1, 2014 or pay the \$50 late fee.

#### **Other Items of Note:**

For the Septic Betterment Program there will be a blackout period for the disbursement of loan funds to communities participating in the program. Any disbursement requests received after December 1<sup>st</sup> will be put on hold until January 7, 2015. Since installations will be ending in December, this will not impact our betterment program.

For FY16, the Massachusetts Department of Public Health will limit the use of state supplied vaccine, it will be used for uninsured adult patients only. Based on this, I anticipate we will purchase 100 doses with revolving account funds. Medicare, MassHealth and most private health plans reimburse local Health Departments for the cost of purchasing and administering influenza vaccine.

#### **Next Month:**

The septic system installation season ends December 15, 2014 and will commence on March 16, 2014 pursuant to Ipswich Board of Health Septic System Regulations. Projects that commenced prior to December 15 will be allowed to continue as weather permits but the systems should be completed by December 22, 2014.

**December 2014 Activities Report:** The Board reviewed the Director's report.

#### **Projects:**

**Tobacco:** In November, packets of signage and the Massachusetts laws regarding the sale of tobacco were disseminated to tobacco retailers. The Food Inspector conducted retail store inspections to determine if tobacco sales permits and/or required signs are posted, and if stores illegally sell tobacco products in self-service displays or vending machines.

## **Weekly Activities:**

**Ebola:** The Department of Public Health (DPH) continues to hold weekly conference calls on Ebola. The Epidemiology Program at the Massachusetts Department of Public Health (DPH) will provide consultation and assistance to local health officials and providers who have questions about assessing an individual's risk for Ebola. The Epidemiology Program can be reached by calling 617-983-6800.

To date there have been no cases of Ebola in Massachusetts or the United States. The disease continues to affect the populations of Sierra Leone, Guinea, and Liberia. The Center for Disease Control recently added Mali to the list of affected countries. As of December 30, the World Health Organization reports: Total Cases: 20,081; Laboratory-Confirmed Cases: 12,818; Total Deaths: 7,842.

**Food Establishments:** The Ipswich River General Store closed but has received plan approval for a new location in Ipswich. Marty's Donut Land and the Ipswich Butcher Shop closed.

**Septic Betterment Program:** Two septic systems funded by betterments were installed. A total of eight installations have been completed as part of the betterment program since its commencement in 2012.

**Emergency Preparedness:** The Massachusetts Department of Public Health's (MDPH) Public Health Emergency Preparedness Deliverables for Local Public Health establish requirements for the Regional Emergency Preparedness Coalitions (coalitions) for local and regional emergency preparedness activities. Local Public Health is responsible for running a community-based Emergency Dispensing Sites (EDS) in response to an infectious disease outbreak such as an influenza pandemic or a large-scale bioterrorism event. The EDS will dispense prophylaxis (vaccine or medication) to the residents within its jurisdiction. Three of the annual local emergency planning deliverables involving the Emergency Dispensing Site (EDS), the EDS Staff Notification, Site Activation and Facility Set-up drills, were conducted by the Public Health Nurse. The EDS Staff Notification drill involves the notification of key incident command staff that would work at the Emergency Dispensing Site. The drill tracks how long it takes for key staff to respond to the call. The EDS Site activation drill involves the notification to key individuals who have the ability to open the facility (Middle School/High School) being used as the EDS. The drill tracks how long it takes for these individuals to respond to the call. The Facility Set-up Drill tracks how long it would take to set-up an EDS. The results of the drills were submitted to MDPH.

**Permitting:** Approximately 200 applications received for 2015 permits issued by the Board of Health have been processed. Additional applications will be processed in January.

**Greenhead Fly Control Project:** At the December Northeast Massachusetts Mosquito Control and Wetlands Management District (NEMMC) meeting the Commission discussed the cost of the Greenhead Fly Control Project. The Commission has determined there will be no increase in the cost of the greenhead traps which is \$74.19/trap. The assessment charged to Ipswich will be the same as last year, \$15,283.14 for 200 traps.

**Housing:** Seven properties are involved with enforcement orders currently. Four hearings were held in December.

1. For 8 Meetinghouse Green, the owners were granted an extension until March 15, 2015 to correct the exterior violations since all interior violations had been corrected.
2. For 70 East Street, the Board granted an extension until by February 8, 2015, to correct the two remaining interior violations since the dwelling is now owner occupied.
3. The owners of 29 Lafayette Road plan to sell the property as is and the new owners will make all necessary repairs. The dwelling is now vacant and a closing is scheduled for the transfer of title on December 30, 2014. If the property doesn't transfer on December 30, 2014, the owners must appear before the Board at their January 12, 2015 meeting and provide an update on their plans for the property.

4. The Board of Health determined that the dwelling at 40 South Point Lane was unfit for human habitation since it does not have electricity or a potable water supply. The dwelling shall not be occupied without the prior written permission of the Board of Health based upon the Board's written finding that the dwelling is unfit for human habitation. It was also the decision of the Board to pursue the Abandoned Housing Initiative and, if necessary, the appointment of a receiver for the property pursuant to General Laws chapter 111, section 127I.

For two properties that are unoccupied and appear to be abandoned by the owners, 41 Country Club Way and 40 South Point Lane, Ms. Fermon contacted the Attorney General's Office and is pursuing their Abandoned Housing Initiative (AHI). AHI was developed to provide a tool to communities to rid otherwise viable neighborhoods of blighted property. This program functions as a partnership between the Attorney General's Office and local communities to turn these properties around. To make these changes, the Program employs the State Sanitary Code's enforcement authority vested in the Attorney General (AG) and individual cities and towns to seek out delinquent owners of abandoned, unoccupied, residential properties to get the owner to fix his or her house. If the owner refuses, then the Attorney General's Office will petition the Housing Court to appoint a receiver to bring the house up to applicable code. A representative of the Attorney General's Office will conduct a site visit with me next month and determine if the properties are suitable for the AHI.

#### **Other Items of Note:**

**Septic Systems:** The septic system installation season ended December 15, 2014 and will commence on March 16, 2014 pursuant to Ipswich Board of Health Septic System Regulations.

**Influenza:** The last weekly flu report of 2014 from MDPH indicates a slight increase in rates of flu-like illness in Massachusetts. There will likely be an increase in flu like illness as the season progresses but the peak of flu season usually isn't until late February or March.

#### **Performance Measures:**

Housing related enforcement activities have increased over the level for this month last year. Typically there may be 3 or less enforcement activities occurring each month but there are currently 7 properties with enforcement orders.

#### **Next Month:**

**Pesticide Exclusion:** The application of pesticides is regulated under 333 CMR 13.00. A designation for exclusion is made by supplying the clerk of the municipality in which such lands lie with a certified letter providing the name, address, telephone number (if any), and defining programs from which exclusion is requested. Designations may be made prior to March 1 of each year and shall be effective from April 1 of that year through March 31 of the following year. Residents who desire to have their property excluded from the application of pesticides for mosquito control must comply with the process and deadline. Northeast Massachusetts Mosquito Control and Wetlands Management District will not accept exclusion requests made after March 1. This will be publicized to residents in January via a press release and a posting on the town website.

**Fee Schedule Public Hearing:** Notice will be given in the Chronicle that the Ipswich Board of Health will conduct a Public Hearing on Monday, February 2, 2015 at 5:30 pm at the Town Hall, Meeting Room C to discuss the proposed changes to the Fee Schedule.

The following increases are proposed:

The Food Establishment Re-inspection fee will increase from \$35 to \$75;  
The Mobile Food Plan Review fee will increase from \$25 to \$100;  
The Certificate of Fitness fee will increase from \$50 to \$100;  
The Housing Re-inspection fee will increase from \$25 to \$75; and  
The Septic System Installer renewal permit will increase from \$50 to \$100.

**Electronic cigarettes:** The Ipswich Chronicle contacted Colleen Fermon regarding a regional article on electronic cigarettes. Ms. Fermon informed the Chronicle that currently the Board of Health does not regulate electronic cigarettes and that they have not discussed it to date.

Ms. Fermon was asked if electronic cigarettes posed a health risk to the user or to those inhaling second-hand vapors from electronic cigarettes. Ms. Fermon said electronic cigarettes have not been fully studied, so the potential risks of electronic cigarettes to the user or to others around the user is not known at this time. The FDA is looking at extending their oversight to include electronic cigarettes and many studies and FDA public meetings are occurring to learn more about these products. Ms. Fermon said the subject of electronic cigarettes was on her radar for discussion later this year.

The Board members attested that they were not well educated enough on electronic cigarettes to take any action at this time.

**29 Lafayette Road:** The first offer for transfer of title did not work out. A second offer has been made and is scheduled to close on January 30, 2015. The new owner would make the repairs the current owner was order to correct.

**Trainings:** Susan Hubbard will attend a training on Bioterrorism Agents in February 2015. Coleen Fermon and Pamela Lara will attend a training on Personal Protective Equipment in February 2015.

**Next Board Meeting:** The next meetings of the Board of Health were scheduled for February 2, 2015, March 9, 2015, and April 6, 2015 at 5:30 PM.

**Adjourn:** Susan Hubbard made the motion to adjourn at 6:47 PM. Dr. Amesbury seconded the motion. The motion to adjourn passed unanimously.

Documents used at the January 12, 2015 Board of Health meeting:

- Board of Health Fee Schedule
- Septic system design plan for 1 Birch Lane
- Septic system design plan for 7 Old Essex Road
- Septic system design plan for 240 High Street
- Septic system design plan for 29 Jeffrey's Neck Road
- Septic system design plan for 32 North Ridge Road
- Title 5 Inspections and pumping records for 3 Courtland Way
- Septic system design plan for 23 North Ridge Road and Board of Health Septic System Regulations
- Board of Health September 9, 2013 decision regarding 30 Plover Hill Road
- Orders to correct dated December 15, 2014 and October 10, 2014 for 24 Green Street
- Activities reports for November and December 2014

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Susan C. Hubbard, Chairperson

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Dr. Spencer Amesbury, Board Member